## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JOSE HUMBORTO PEREZ	)	
Claimant	)	
VS.	)	
	)	Docket No. 227,990
KD ROOFING	)	
Respondent	)	
AND	)	
	)	
HARTFORD ACCIDENT & INDEMNITY	)	
Insurance Carrier	)	

## ORDER

The respondent appealed the September 16, 1999 Order entered by Administrative Law Judge Nelsonna Potts Barnes.

## ISSUES

This is a claim for a July 1997 accident. Claimant has left the United States and now resides in Mexico. According to claimant's attorney, the claimant must have an order requiring his personal appearance in this proceeding before the U.S. Consulate will issue a visa permitting him to reenter the United States, which would then allow him to attend both the prehearing settlement conference and regular hearing in this claim. Therefore, claimant requested such an order from the Judge, which was granted.

The respondent and its insurance carrier contend the Judge erred by requiring claimant's presence to adjudicate this claim. They argue that such order deprives them of the opportunity to seek termination of benefits under the provisions of K.S.A. 44-528 that pertain to individuals who leave the United States. Additionally, they argue that the Judge issued a declaration rather than an order and, therefore, the Judge exceeded her jurisdiction.

The only issue on this appeal is whether the Judge erred by either ordering or declaring that claimant is required to appear to adjudicate this claim. But first the Board must decide whether it has jurisdiction to decide this issue at this stage of the proceeding.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record compiled to date, the Appeals Board finds:

1. This appeal should be dismissed.

IT IS SO ORDERED.

- 2. The Order requiring Mr. Perez to appear is interlocutory in nature.
- 3. The Appeals Board's jurisdiction to review appeals is created by K.S.A. 1998 Supp. 44-534a and K.S.A. 1998 Supp. 44-551. Those statutes convey the authority upon the Appeals Board to review (1) certain designated preliminary hearing findings and (2) final orders and awards. Neither statute creates the authority in the Board to review the interlocutory order now presented.

**WHEREFORE**, the Appeals Board dismisses the appeal leaving the September 16, 1999 Order entered by Judge Barnes in full force and effect.

Dated this day of Nov	ember 1999.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
Richard J. Liby, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director